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Paper No. 7

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APR 16 2002

OFFICE OF PETITIONS

In re Application of :
James L. Rice III : DECISION GRANTING
Application No. 09/866,454 : PETITION
Filed: May 25, 2001 :
Attorney Docket No. 43406.22.2 :

This is a decision on the paper styled "RESPONSE TO NOTICE TO FILE MISSING PARTS AND REQUEST FOR CORRECTED FILING DATE" filed January 30, 2002, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of May 25, 2001, rather than the presently accorded filing date of May 26, 2001.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 25, 2001, pursuant to the requirements of 37 CFR 1.10. In support applicant submits a copy of Express Mail receipt number EL486371611US, and a U.S. Postal Service (USPS) sales receipt for the Express Mail package in question. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter found in the present application.

It is noted that the Express Mail receipt shows a handwritten "date-in" of "5-26-01", the receipt also includes a USPS receipt stamp date May 25, 2001 but the notation is illegible. However, the USPS sales receipt clearly shows that Express Mail label No. EL486371611US was accepted for deposit on May 25, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 25, 2001.


The petition is granted.

No petition fee is required and none has been charged.

Receipt is acknowledged of the statutory basic filing fee, formal drawings, an abstract, a petition for a three month extension of time, and the declaration filed January 30, 2002, in response to the Notice mailed August 16, 2001.

The application is being returned to Initial Patent Examination Division for correction of the filing date to May 25, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.


Sherry Brinkley
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for Patent Examination Policy